

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

CHANCEY D. HOWARD,

Plaintiff,

vs.

BENTON COUNTY JAIL, C/O JOE
HORTON, C/O JOE PEREZ,
HEARING OFFICER RUNGE and
HEARING OFFICER PETERS,

Defendants.

NO. CV-06-5010-CI

ORDER ADOPTING REPORT AND
RECOMMENDATION AND DISMISSING
COMPLAINT

1915(g)

Magistrate Judge Imbrogno filed a Report and Recommendation on August 15, 2006, recommending Mr. Howard's complaint be dismissed without prejudice due to noncompliance with Fed. R. Civ. P. 11(a) and for failure to state a claim under *Heck v. Humphrey*, 512 U.S. 477, 481 (1994). There being no objections, the court **ADOPTS** the Report and Recommendation. The Complaint is **DISMISSED WITHOUT PREJUDICE** under 28 U.S.C. §§ 1915(e)(2) and 1915A(b)(1).

Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who brings three or more civil actions or appeals which are dismissed as frivolous or for failure to state a claim will be precluded from bringing any other civil action or appeal *in forma*

1 *pauperis* "unless the prisoner is under imminent danger of serious
2 physical injury." 28 U.S.C. § 1915(g). Plaintiff is advised to read
3 the new statutory provisions under 28 U.S.C. § 1915. This dismissal
4 of Plaintiff's complaint may count as one of the three dismissals
5 allowed by 28 U.S.C. § 1915(g) and may adversely affect his ability to
6 file future claims.

7 IT IS SO ORDERED. The District Court Executive is directed to
8 enter this Order, forward a copy to Plaintiff at his last known
9 address, enter judgment, and close the file. The District Court
10 Executive is further directed to forward a copy of this Order to the
11 Office of the Attorney General of Washington, Criminal Justice
12 Division.

13 DATED this 27th day of September 2006.

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15 s/ Fred Van Sickle
16 FRED VAN SICKLE
17 UNITED STATES DISTRICT JUDGE
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